

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36299

SOO LINE RAILROAD COMPANY—PETITION FOR DECLARATORY ORDER AND
PRELIMINARY INJUNCTION—INTERCHANGE WITH CANADIAN NATIONAL

Decided: July 19, 2019

On April 30, 2019, Soo Line Railroad Company d/b/a Canadian Pacific (CP) filed a petition for declaratory order and preliminary injunction arising from the termination of an interchange agreement with Wisconsin Central Ltd. d/b/a Canadian National (CN) in the Chicago Terminal Area. CP states that the agreement provides for interchange of CN and CP rail cars in Chicago, Ill., at Spaulding, where the two railroads physically connect. (CP Pet. 1.) According to CP, on March 11, 2019, CN gave CP notice that it would be terminating the interchange agreement effective May 10, 2019. (*Id.* at 2.) CP states in its petition that, instead of Spaulding, CN has stated that it will accept rail cars in interchange at CN's Kirk Yard in Gary, Ind. (*Id.*)

CP requested that the Board issue a declaratory order that CN's Kirk Yard is an unreasonable interchange location, and that the Board issue a preliminary injunction ordering CN to "continue to receive CP cars at Spaulding." (*Id.*) In its reply to the preliminary injunction request, CN stated that CP is "willing" to deliver CN-bound cars to the Belt Railway Company of Chicago's Clearing Yard, although CP and CN disagree on who should bear the expenses arising from that option. (CN Reply 1-2 (citing CP Pet., Exs. E & G).)

By decision served on May 9, 2019, the Board directed CN and CP to participate in Board-sponsored mediation and noted its expectation that CN and CP would continue to interchange rail cars at Spaulding while they mediated the dispute. During the course of the mediation, the Board received several filings from CN and CP,¹ in addition to comments from members of the public, including citizens and local government entities, regarding rail traffic near the Spaulding interchange.

The Board has been informed that the mediation concluded unsuccessfully. As mediation has concluded and efforts between the parties to resolve the matter have been unsuccessful to date, the Board will hold an oral argument in this case on August 6, 2019, in Washington, D.C. The Board directs CN and CP to participate in the oral argument and expects the parties to be

¹ To the extent any of the submissions by CN or CP may be considered replies to replies under 49 C.F.R. § 1104.13(c), those submissions will be accepted in the interest of a more complete record.

prepared to discuss their arguments and evidence and respond to questions from the Board. Notices of intent to participate by other parties of record will be due by July 29, 2019. Further details regarding the oral argument, including the time and specific location, will be issued in a separate decision.

It is ordered:

1. All filings by CN and CP to date are accepted into the record.
2. An oral argument will be held in this proceeding, as discussed above.
3. This decision is effective on the date of service.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.